

BILL NO. 74 -2008
AN ORDINANCE

AMENDING THE CITY OF READING CODIFIED ORDINANCES
CHAPTER 6, PART 3 GRAFFITI, SECTION 6-308 - ENFORCEMENT
PROCEDURE BY ADDING A PROVISION THAT ALLOWS THE CITATION
OF PARENTS/GUARDIANS OF MINORS FOR ALL VIOLATIONS OF THIS
PART.

SECTION 1. Amending the City of Reading Codified Ordinances Chapter 6, Part 3 Graffiti, Section 6-308 Enforcement Procedure as attached in Exhibit A

SECTION 2. All other sections, parts and provisions of the City of Reading Code of Ordinances shall remain in full force and effect as previously enacted and amended.

SECTION 3. In the event any provision, section, sentence, clause, or part of this Ordinance shall be held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such invalidity, illegality, or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses, or parts of this Ordinance, it being the intent of City Council that the remainder of the Ordinance shall be and shall remain in full force and effect.

SECTION 4. This Ordinance shall take effect ten (10) days after adoption in accordance with City of Reading Home Rule Charter, as amended, Sections 219 and 221.

Enacted Nov 24, 2008.



President of Council

Attest:  _____

City Clerk

(Council Staff)

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Ordinance passed by the Council of the City of Reading, on the 24 day of Nov, A. D. 2008. Witness my hand and seal of the said City this 30 day of Nov, A. D. 2008.


CITY CLERK

Submitted to Mayor: _____

Date: 11-25-08

Received by the Mayor's Office: _____

Date: _____

Approved by Mayor: _____

Date: 12/2/09

Vetoed by Mayor: _____

Date: _____

EXHIBIT A

CHAPTER 6 PART 3 GRAFFITI

§6-301. Purpose.

Graffiti contributes to the deterioration of property values, unsightliness and general disorder in a community. Recognizing this community problem, the purpose of this Part is to promote safety and general welfare of the residents/citizens of the City by helping to create a graffiti free environment. (*Ord. 5-1998, 3/23/1998, §1; as amended by Ord. 30-2003, 9/22/2003, §1*)

§6-302. Definitions.

DIRECTOR - the Director of the Department of Public Works.

GRAFFITI -

A. Any inscription, work, symbol, figure, making or design, including but not limited to, tags, throw-ups and pieces, that is marked, etched, scrawled, stained, drawn or painted, stuck on, or adhered to any surface on public or private property without the express permission of the owner or owner's agent of such property including, but not limited to, any wall, underpass, overpass, trestle, tree, sign, pole, playground apparatus, utility box, building, structure, fixture or other improvement whether permanent or temporary, regardless of the content or nature of the material that has been applied, and which is visible from any public property or the public right-of-way, or from any private property other than the property on which the graffiti exists.

B. Graffiti shall not be construed to apply to easily removable chalk markings on the public sidewalks and streets used in connection with traditional children's games.

GRAFFITI ABATEMENT COSTS AND EXPENSES - the costs and expenses of having the defaced property repaired or replaced when the City determines that removal of the graffiti would not [be] cost effective; and the law enforcement costs and expenses incurred in identifying and apprehending a responsible party; and the related administrative, overhead and incidental costs incurred in performing or causing the performance of the enforcement, abatement or collection procedures described in this Part and related court costs and attorneys fees.

GRAFFITI IMPLEMENT - any implement capable of marking a surface to create graffiti, including, but not limited to, aerosol or pressurized paint containers,

markers, gum labels, paint brushes or etching tools capable of scarring glass, metal, concrete or wood.

GUM LABELS - any material such as, but not limited to, decals, stickers, posters or labels which contain a substance commonly known as adhesive or glue, which cannot be removed from the surface in an intact condition and with minimal efforts.

MARKER - any indelible or permanent marker or similar implement with a point, brush, applicator or other writing surface which at its broadest width is 3/8 of an inch or greater and contains ink that is not water soluble.

MINOR - any person under the age of 18 years.

PAINT STICK or GRAFFITI STICK - any device containing a solid form of paint, chalk, wax, epoxy, or other similar substances capable of being applied to a surface by pressure and upon application, leaving a visible mark and that is not water soluble.

PERSON - every natural person, firm, corporation, partnership, association or institution.

PIECES - forms of graffiti represented by detailed, multi-colored murals, ranging in size.

PRIVATE PROPERTY - any land and the improvements thereon owned by any person and includes front, side and rear yards, vacant lots, buildings and other structural improvements, walkways and alleyways and parking areas designed or used either wholly or in part for private residential, industrial or commercial purposes, whether inhabited or temporarily or continuously uninhabited or vacant, including any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or structure.

PUBLIC OFFICER - any police officer or any public official authorized to enforce laws of the City of Reading as set forth in the Codified Ordinances.

TAGS - a form of graffiti represented by stylized signatures of a writer's chosen name.

THROWUPS - a form of graffiti represented by large names or figures written in a bubble style, often with an outline written in a different color than the interior of the letters.

(Ord. 5-1998, 3/23/1998, §1; as amended by Ord. 30-2003, 9/22/2003, §2)

§6-303.A. Prohibitions.

1. It shall be unlawful for any person to commit any overt act resulting in or attempting to result in an application of graffiti.
2. It shall be unlawful for any person to intentionally, maliciously or wantonly expose or tend to expose another to risk of violence, contempt or hatred on the

basis of race, color, creed or religion by the use of what is commonly known as graffiti.

3. It shall be unlawful for any parent, legal guardian or other person having custody and care of any minor child under the age of 18 years to knowingly assist, aid, abet, allow, permit or encourage said minor to violate the provisions of this Part, as herein defined, either by words, overt act or by failing to act.

4. All persons directly or indirectly involved in acts of graffiti vandalism may be found to be equally responsible and guilty of the act, in addition to the individual who may personally deface the object or area, such as others in the group who knowingly make available the tools, writing materials, ladders, lookouts, materials or assistance, or who knowingly supplies funds to acquire such materials for such purposes.

5. Every person who owns, conducts, operates or manages a retail, commercial establishment selling aerosol containers of spray paint or broad-tipped indelible markers shall place a sign in clear public view at or near the display of such products stating:

GRAFFITI IS A CRIME. ANY PERSON DEFACING REAL OR
PERSONAL PROPERTY NOT HIS OR HER OWN WITH PAINT OR
ANY OTHER LIQUID OR DEVICE IS GUILTY OF A CRIME
PUNISHABLE BY A FINE OF UP TO \$1,000 OR A PRISON
SENTENCE.

6. It shall be unlawful for any person under the age of 18 to have in their possession any graffiti implement while on any public highway, street, alleyway, sidewalk, park, playground, swimming pool or other public place or property or on private property unless the owner of that property consented to the presence of the paint or marker, whether such person is or not in any automobile, vehicle or other means or method of conveyance.

7. It shall be unlawful for any person to have, in his or her possession, a graffiti implement while in any public park, playground, swimming pool, recreational facility (other than highway, street, alleyway or sidewalk) except authorized employees of the City of Reading or an individual or authorized employee of an individual or company under contract with the City of Reading.

8. It is unlawful for any person to have in his or her possession any graffiti implement on private property closed to the public without permission from the owner or his lawful agent.

(Ord. 5-1998, 3/23/1998, §1; as amended by Ord. 30-2003, 9/22/2003, §3)

§6-303.B. Exemptions.

This prohibition shall not apply to a child using paint or a marker while under the immediate supervision of their parent or legal guardian, a student under direct supervision of their teacher or an employee using paint or a marker at the

direction and under the supervision of their employer. (*Ord. 5-1998, 3/23/1998*; as added by *Ord. 30-2003, 9/22/2003, §3*)

§6-304. Removal of Graffiti.

1. Wherever a Public officer becomes aware of the existence of graffiti on any property, structures or improvements within the City that is visible to the public, the Director, upon such discovery, shall give or cause to be given, notice to remove or effectively obscure such graffiti within 5 days from receipt of any notice given by the City, and will then inform the Director that such notice has been given. This notice shall include a description of the City of Reading Graffiti Program. This description shall include methods approved for graffiti removal that do not require the use of chemicals. The notice shall be given to the owner, agent or manager of said property, structure or improvement who shall:
 - A. Cause the graffiti to be removed or effectively obscured.
 - B. Provide written consent and waiver of liability to authorize the Director to remove or effectively obscure any graffiti at no cost to the property owner.
 - C. Have the graffiti removed by the City without the owner's consent, consistent with provisions of this Part.
2. The notice may be served by:
 - A. Handing the notice to the owner of the property in person.
 - B. Posting the notice on or near the front door of the property that is defaced with graffiti.
 - C. If the property defaced with the graffiti does not consist of a building, the notice shall be on a placard attached to a stake driven into the ground on the property. [*Ord. 30-2003*]
3. Where property defaced by graffiti is owned by a public entity other than the City, the Director shall cause removal of the graffiti only after securing the consent of an authorized representative of the public entity that has jurisdiction over the structure.
4. Whenever the City becomes aware or is notified and determines that graffiti is located on publicly or privately owned property viewable from a public or quasi-public place, the City shall be authorized to use public funds for the removal of the graffiti, or for the painting or repairing of the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the Director of Public Works determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.

5. Prior to entering upon private property or property owned by a public entity other than the City for the purpose of graffiti removal the City shall attempt to secure the consent of the property owner or responsible party and a release of the City from liability for property damage or personal injury. If the property owner or responsible party fails to remove the offending graffiti within the time specified by this Chapter and the notice, or if the City has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the City and consistent with the terms of this Section, the City shall commence to remove or repair the graffiti without the consent of the owner. [Ord. 30-2003] (Ord. 5-1998, 3/23/1998, §1; as amended by Ord. 30-2003, 9/22/2003, §3)

§6-305. Graffiti Abatement Hearing.

At a hearing requested by the property owner, the owner shall be entitled to present evidence and argue that his or her property does not contain graffiti. The determination of the Director after the hearing shall be final and not appealable. After the hearing, if the Director determines that the property contains graffiti, the Director may order that the graffiti be abated. (Ord. 5-1998, 3/23/1998, §1; as amended by Ord. 30-2003, 9/22/2003, §4)

§6-306. Anti-graffiti Trust Fund.

There is hereby created the City of Reading Anti-graffiti Trust Fund. Civil and criminal penalties assessed against violators of this Part and public and private sector contributions and grants to the City for graffiti abatement efforts shall be placed in the fund. The Director shall direct the expenditures of monies in the fund which shall be limited to the payment of the cost of removal of graffiti, the costs of administering this Part, public awareness programs and any such other public purpose as may be approved by City Council and the Mayor. (Ord. 5-1998, 3/23/1998, §1; as amended by Ord. 30-2003, 9/22/2003, §4)

§6-307. Reward.

The Mayor or his designee, may grant awards up to the sum of \$200 for information leading to the arrest and/or conviction of any individual for violating provisions of this Part. Reward funds are to be paid from the Anti-graffiti Trust Fund. (Ord. 5-1998, 3/23/1998, §1; as amended by Ord. 30-2003, 9/22/2003, §4)

§6-308. Enforcement Procedure.

1. If the party cited for a violation of this Part is a minor/juvenile, a citation may be issued to the minor/juvenile and the parent(s) and or guardian(s). If cited, the minor/juvenile and parent(s) or guardian(s) shall appear in district justice court. The parent(s) or guardian(s) shall be forwarded a copy of the citation of the juvenile, and said citation will be mailed via certified mail, return receipt requested, and will include a warning that the parent(s) is (are) responsible and liable as the juvenile's parent(s). Any and all records of such citations shall be maintained in the City's database. Each violation shall constitute a separate offense.

2. If the parent(s) or guardian(s) has (have) been warned pursuant to subsection (1) hereof, then the officer may issue a citation to the parent(s) or guardian(s) for every subsequent violation of this Part. Each violation shall constitute a separate offense.

3. Once a citation is issued, pursuant to subsection (2) hereof, each and every subsequent violation of this Part is cause for an officer to issue a citation to the parent(s) or guardian(s) of the juvenile.

4. If any operator of an establishment or any agents or employees of any operator fail to comply with the provisions of this Part, a police officer shall issue a citation for said violation. Each violation shall constitute a separate offense.

§6-308-309. Penalties.

1. Any person, firm or corporation who shall violate §6-303, "Prohibitions" shall be, upon conviction thereof, sentenced to pay a fine of \$300 for the first offense and a fine of \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days for a second or subsequent offense.

2. In addition to any penalty in accordance with this Part, the defendant shall make restitution to the victim for damages or loss caused directly or indirectly by the defendant's offense in reasonable amount or manner to be determined by the court.

3. In addition to such penalty, the court may, in imposing sentence, order the defendant to perform community service no less than 50 hours and not to exceed 100 hours. (Ord. 5-1998, 3/23/1998, §1; as amended by Ord. 14-2001, 5/29/2001; and by Ord. 30-2003, 9/22/2003, §4)